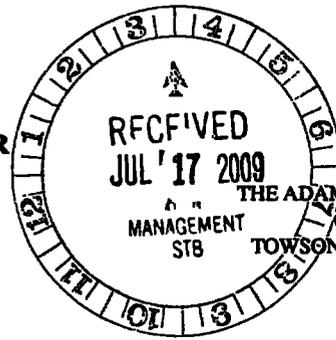


LAW OFFICES OF
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July 17, 2009



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225380

Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

RE: Finance Docket No. 35281, *CSX Transportation, Inc.—Trackage Rights Exemption—Commonwealth Railway Incorporated*

Dear Acting Secretary Quinlan:

Enclosed for filing are the original and ten copies of a Motion for Protective Order and a diskette with the file with the file in WORD and pdf format.

Please time and date stamp the extra copy of this letter and the Motion and return them with our messenger.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to be "Louis E. Gitomer".

Louis E. Gitomer
Attorney for CSX Transportation, Inc.

Enclosures

ENTERED
Office of Proceedings
JUL 17 2009
Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35281

CSX TRANSPORTATION, INC.—TRACKAGE RIGHTS EXEMPTION—
COMMONWEALTH RAILWAY INCORPORATED

MOTION FOR PROTECTIVE ORDER

EXPEDITED HANDLING REQUESTED

Steven C. Armbrust
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Attorneys for: CSX Transportation, Inc.

Dated: July 17, 2009

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35281

CSX TRANSPORTATION, INC.—TRACKAGE RIGHTS EXEMPTION —
COMMONWEALTH RAILWAY INCORPORATED

MOTION FOR PROTECTIVE ORDER

CSX Transportation, Inc. (“CSXT”), pursuant to 49 C.F.R. §1104.14(b), files this Motion for Protective Order (the “Motion”) for approval to file under seal the unredacted draft Trackage Rights Agreement (the “Agreement”) between CSXT and Commonwealth Railway Incorporated (“CWRV”).

Concurrent with the filing of this Motion, CSXT is filing a Verified Notice of Exemption (the “Notice”) pursuant to 49 C.F.R. §1180 for CSXT to obtain overhead trackage rights over a line of the CWRV between Suffolk, milepost 16.50, and Churchland, VA, milepost 9.90, a distance of approximately 6.60 miles. CSXT is filing a redacted version of the Agreement with the Notice.

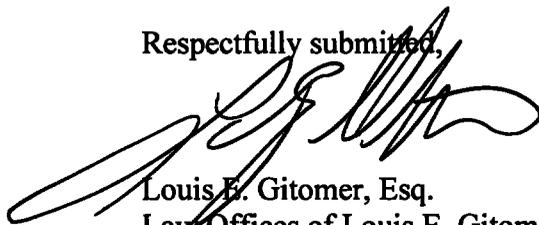
The Agreement contains commercially sensitive and confidential information that could harm the parties if those terms were made public. The Agreement contains proprietary commercial information that if disclosed could be competitively damaging. Moreover, public disclosure of the commercially sensitive provisions of the Agreement is not necessary for the disposition of the Notice. CSXT, with the concurrence of CWRV, requests the Board to treat those terms as confidential. To that end, CSXT will file a public redacted copy of the Agreement with the Notice, and will file an unredacted version of the Agreement under seal. Public

disclosure of the complete Agreement is not necessary for the consideration and disposition of CSXT's Notice.

CSXT respectfully requests the Board to issue the attached Protective Order in this proceeding governing access to and keeping under seal the unredacted Agreement. This approach is consistent with that taken by the Board in similar circumstances. The draft Protective Order and Undertaking are similar to those recently served by the Board. *See Illinois Central Railroad Company—Trackage Rights Exemption—Grand Trunk Western Railroad Company*, STB Finance Docket No. 35241 (STB served May 8, 2009); *Chicago Central & Pacific Railroad Company—Trackage Rights Exemption—Wisconsin Central Ltd.*, STB Finance Docket No. 35242 (STB served May 8, 2009); *Grand Trunk Western Railroad Company—Trackage Rights Exemption—Wisconsin Central Ltd.*, STB Finance Docket No. 35243 (STB served May 8, 2009); and *Illinois Central Railroad Company—Trackage Rights Exemption—Wisconsin Central Ltd.*, STB Finance Docket No. 35244 (STB served May 8, 2009).

When the parties reach a final definitive Agreement, CSXT will submit that Agreement to the Board under the proposed Protective Order as well. CSXT prays that the Board grant its Motion for a Protective Order.

Respectfully submitted,



Steven C. Armbrust
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Attorneys for: CSX Transportation, Inc.

Dated: July 17, 2009

APPENDIX

PROTECTIVE ORDER

1. For purposes of this Protective Order, “Confidential Information” means the unredacted trackage rights agreement submitted by CSX Transportation, Inc. (“CSXT”) in STB Finance Docket No. 35281.

2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to CSXT of the attached Undertaking. Confidential Information shall be used solely for the purpose of this and any related Board proceedings, or any judicial review proceeding arising therefrom, and not for any other business, commercial, or competitive purpose.

3. Confidential Information shall not be disclosed in any way or to any person without the written consent of CSXT or an order of the Board, solely for use in connection with this and related Board proceedings, or any judicial review proceeding arising therefrom, provided that such person has been given and has read a copy of this Protective Order and agrees to be bound by its terms by executing the attached Undertaking prior to receiving access to this information.

4. Any documents containing Confidential Information must be destroyed, and notice of such destruction must be served on CSXT at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom, whichever comes first.

5. If the Board retains the Confidential Information, it shall, in order to keep it confidential, treat the information in accordance with the procedure set forth at 49 CFR 1104.14.

6. If any party intends to use Confidential Information at hearings in this proceeding or in any related Board proceedings, or in any judicial review proceeding arising therefrom, the party shall submit any documents setting forth or revealing such Confidential Information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at the hearing during discussion of such Confidential Information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such Confidential Information in accordance with the Protective Order.

7. A person must file simultaneously a public version of any confidential submission it files with the Board.

8. All parties must comply with all of the provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

UNDERTAKING

CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order governing the filing of Confidential Information by CSX Transportation, Inc. ("CSXT") in STB Finance Docket No. 35281, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under this Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in STB Finance Docket No. 35281 or any judicial review proceeding taken or filed in connection therewith. I further agree not to disclose any data or information obtained under this Protective Order to any person who is not also bound by the terms of this Protective Order and has not executed an Undertaking in the form hereof.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that CSXT shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Signed: _____

Position: _____

Affiliation: _____

Dated: _____

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Motion for Protective Order in Finance Docket 352 __, *CSX Transportation, Inc.—Trackage Rights Exemption— Commonwealth Railway Incorporated*, to be served electronically or by first class mail, postage pre-paid on Commonwealth Railway Incorporated.



Louis E. Gitomer
July 17, 2009